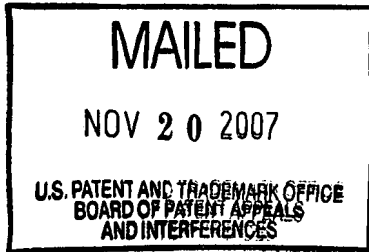


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte MARK RUTLEDGE

Application 10/789,534

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on November 14, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matter requiring attention prior to docketing is identified below:

An examination of the Image File Wrapper (IFW) reveals that the Appeal Brief filed November 21, 2006, lists the grounds of rejection as follows:

- 1) Claims 1, 3, 8, 10, 14, 16, 21, and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Applicant Admitted Prior Art (“AAPA”) in view of U.S. Patent No. 6,789,928, issued to Khan (“Khan”), and further in view of U.S. Pat. No. 6,510,380, issued to Curatolo et al. (“Curatolo”) [page 5];
- 2) Claims 27-34, and 38 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Applicant Admitted Prior Art (“AAPA”) in view of U.S. Pat. No. 6,789,928, issued to Khan (“Khan”), further in view of U.S. Pat. No. 6,510,380, issued to Curatolo et al. (“Curatolo”), and further in view of U.S. Pat. No. 5,825,283, issued to Camhi (“Camhi”) [pages 5 and 6]; and
- 3) Claims 35-37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Applicant Admitted Prior Art (“AAPA”) in view of U.S. Pat. No. 6,789,928, issued to Khan (“Khan”), further in view of U.S. Pat. No. 6,510,380, issued to Curatolo et al. (“Curatolo”), and further in view of U.S. Pat. No. 5,739,749, issued to Hwang (“Hwang”) [page 6].

While the Examiner’s Answer mailed March 7, 2007, states that “[t]he appellant’s statement of the grounds of rejection to be reviewed on appeal is correct” [page 3], the Answer fails to discuss the status of claims 35-37.¹ It

¹ This discrepancy was noted in footnote 1 appearing on page 4 of the Reply Brief filed May 7, 2007.

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should be noted that the discussion of these claims was included in the Final Rejection mailed October 18, 2006.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) for a determination regarding the status of claims 35-37;
- 2) if applicable, for the Hwang reference to be added to the “Evidence Relied Upon” section;
- 3) for notification to appellant regarding the action taken; and
- 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: *Patrick J. Nolan*
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